

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:
Jimmy Morris

Case No. 09-82240
Chapter 13

Social Security No. xxx-xx-9379
Address: 140 Holman Lane, Sanford, NC 27332-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on December 16, 2009, with the Chapter 13 plan being subsequently confirmed on March 30, 2010.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$589.00 per month.

To: \$589.00 per month through April 2011, followed thereafter by \$392.00 per month, starting in June 2011.
3. The changed circumstances that justify the proposed modification are as follows:
 - a. The Debtor is suffering from heart problems, anxiety, clinical depression, panic attacks, acid reflux, and high blood pressure. He has been unable to afford medication for several months.
4. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
5. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.
6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Loss of disposable income.
 - b. Change in length of plan.

Appended Application for an Additional Attorney Fee

7. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: May 4, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward C. Boltz

Edward C. Boltz

North Carolina State Bar No.: 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

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CERTIFICATE OF SERVICE

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on May 4, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Jimmy Morris
140 Holman Lane,
Sanford, NC 27332-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s/ Patty Cherigo
Patty Cherigo

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 5/3/11

Lastname-SS#: Morris-9379 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

SURRENDER COLLATERAL

Creditor Name	Sch D #	Description of Collateral

Creditor Name	Description of Collateral

ARREARAGE CLAIMS ON RETAINED COLLATERAL

REFLECTED EXISTING CONTRACTS/LEASES

Creditor Name	Sch D #	Arrearage Amount

Creditor Name	Description of Collateral

FILED - DEDUCTIBLE PRINCIPAL RESIDENCE - OTHER REAL PROPERTY

Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			n/a	n/a		
			n/a	n/a		
			n/a	n/a		

SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			7.00			
			7.00			
			7.00			
			7.00			

SECURED DEBTS & 910 CLAIMS (Pay 100%)

Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Suntrust Bank		\$8,379	5.25	\$84	\$201	07 Nissan
Vanderbilt Mortgage		\$6,765	5.28	\$68	\$163	95 Redman MH
			7.00			
			7.00			
			7.00			

ATTORNEY FEES (Unpaid Part)

Amount

Law Offices of John T. Orcutt, P.C.

\$250

SECURED TAXES

Secured Amount

IRS Tax Liens

Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS

Amount

IRS Taxes

State Taxes

Personal Property Taxes

Alimony or Child Support Arrearage

COSIGN PROTECT (Pay 100%)

Int. Rate

Payoff Amount

All 'Co-Sign Protect Debts (See***)

GENERAL NON-PRIORITY UNSECURED

Amount to Pay

DMI = None(\$0)

PROPOSED CHAPTER 13 PLAN

\$ 392 /month for 46 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F

Final MD Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

Other Miscellaneous Provisions

In re Jimmy Odell Morris

Debtor(s)

Case No. 09-82240

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>100.00</u>
a. Are real estate taxes included? Yes <u> </u> No <u>X</u>		
b. Is property insurance included? Yes <u> </u> No <u>X</u>		
2. Utilities:	\$	<u>248.38</u>
a. Electricity and heating fuel	\$	<u>0.00</u>
b. Water and sewer	\$	<u>0.00</u>
c. Telephone	\$	<u>120.66</u>
d. Other <u>See Detailed Expense Attachment</u>	\$	<u>10.00</u>
3. Home maintenance (repairs and upkeep)	\$	<u>200.00</u>
4. Food	\$	<u>0.00</u>
5. Clothing	\$	<u>0.00</u>
6. Laundry and dry cleaning	\$	<u>113.00</u>
7. Medical and dental expenses	\$	<u>80.00</u>
8. Transportation (not including car payments)	\$	<u>0.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>0.00</u>
10. Charitable contributions	\$	<u>0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)	\$	<u>34.62</u>
a. Homeowner's or renter's	\$	<u>0.00</u>
b. Life	\$	<u>0.00</u>
c. Health	\$	<u>95.34</u>
d. Auto	\$	<u>0.00</u>
e. Other <u> </u>	\$	<u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments)	\$	<u>25.00</u>
(Specify) <u>Personal Property Taxes</u>		
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)	\$	<u>0.00</u>
a. Auto	\$	<u>0.00</u>
b. Other <u> </u>	\$	<u>0.00</u>
c. Other <u> </u>	\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others	\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>392.00</u>
17. Other <u>Monthly Chapter 13 Payment</u>	\$	<u>0.00</u>
Other <u> </u>	\$	<u>0.00</u>
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	<u>1,419.00</u>
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: <u>NONE</u>		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I	\$	<u>1,419.00</u>
b. Average monthly expenses from Line 18 above	\$	<u>1,419.00</u>
c. Monthly net income (a. minus b.)	\$	<u>0.00</u>

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SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment

Other Utility Expenditures:

<u>Internet</u>	\$	<u>58.32</u>
<u>Cellular Phone</u>	\$	<u>62.34</u>
<u>Total Other Utility Expenditures</u>	\$	<u>120.66</u>